

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES CRUTCHFELD,

Plaintiff,

-against-

THE CITY OF NEW YORK and WINSTON FAVIS,

Defendants.
-----X

ANSWER

07CV4693 (BSJ) (AJP)

JURY TRIAL DEMANDED

**This document has been
electronically filed.**

Defendant Winston Favis, by his attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:¹

1. Denies the allegations set forth in paragraph 1 of the complaint.
2. Denies the allegations set forth in paragraph 2 of the complaint, except admits that plaintiff purports to base jurisdiction as stated therein, and that the City received a document purporting to be a Notice of Claim.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the complaint.
4. Denies the allegations set forth in paragraph 4 of the complaint, except admits that Winston Favis is employed by the City as a police officer for the Police Department of the City of New York at the 26th Precinct in New York County, and is assigned shield no. 23096.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the complaint.

¹ Defendant the City of New York has filed a separate Answer to the Complaint.

6. Denies the allegations set forth in paragraph "6" of the complaint.

7. Denies the allegations set forth in paragraph "7" of the complaint, except admits that Favis was arrested and issued two summonses for disorderly conduct.

8. Denies the allegations set forth in paragraph "8" of the complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "10" of the complaint, except admits that on May 30, 2007 defendant Favis testified in Court.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint.

12. Denies the allegations set forth in paragraph "12" of the complaint.

13. Denies the allegations set forth in paragraph "13" of the complaint.

14. Denies the allegations set forth in paragraph "14" of the complaint.

15. Denies the allegations set forth in paragraph "15" of the complaint.

16. Denies the allegations set forth in paragraph "16" of the complaint.

17. Denies the allegations set forth in paragraph "17" of the complaint.

18. Denies the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. Denies the allegations set forth in paragraph "20" of the complaint.

21. Denies the allegations set forth in paragraph "21" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

22. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

23. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

24. There was reasonable suspicion to stop and detain plaintiff.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

25. There was probable cause for plaintiff's arrest, detention and prosecution.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

26. Plaintiff failed to comply with lawfully issued orders.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

27. Defendant is entitled to qualified immunity.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

28. Plaintiff has failed to comply with section 50 of the Municipal Law.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

29. This action is barred in whole or in part by the doctrines of res judicata and/or collateral estoppel.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

30. This action is barred in whole or in part by the applicable limitations period.

WHEREFORE, defendant Favis requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 29, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York and
Police Officer Winston Favis
100 Church Street, Room 3-159
New York, New York 10007
(212) 788-8698

By: _____

Steve Stavridis (SS 4005)

(By ECF)

TO: Stuart Lichten, Esq. (SL-1258)
Attorney for Plaintiff
275 Seventh Avenue, 17th Floor
New York, New York 10001
(212) 228-6320